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LIBERTY UNDER LAW

THE CUTLER LECTURE
FOR 1921

LIBERTY UNDER LAW
AN INTERPRETATION OF THE
PRINCIPLES OF OUR CONSTITU-
TUTIONAL GOVERNMENT,

BY

WILLIAM HOWARD TAFT



NEW HAVEN: PUBLISHED FOR
THE UNIVERSITY OF ROCHESTER
BY THE YALE UNIVERSITY PRESS
LONDON · HUMPHREY MILFORD · OXFORD UNIVERSITY PRESS
MDCCCCXXII

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THE CUTLER LECTURES

ESTABLISHED IN
THE UNIVERSITY OF ROCHESTER
BY JAMES GOOLD CUTLER

It appears to me that the most useful contribution which I can make to promote the making of democracy safe for the world (to invert Mr. Wilson's aphorism) is to found in The University of Rochester, a course of lectures, designed to promote serious consideration, and consideration by as many people as possible, of certain points fundamental, and therefore vital, to the permanence of constitutional government in the United States.

My basic proposition is that our political system breaks down, when and where it fails, because of lack of a sound education of the people for whom and by whom it is intended to be carried on:

- (a) In its principles;
- (b) In its historical development as illustrating the application of it to and under changing conditions, and
- (c) In those moral standards, perhaps best to be developed in religious teaching but not safely to be separated entirely from University work.

FROM MR. CUTLER'S LETTER TO THE PRESIDENT OF THE UNIVERSITY

LIBERTY UNDER LAW

AN INTERPRETATION OF THE PRINCIPLES OF OUR CONSTITU- TUTIONAL GOVERNMENT

Mr. Cutler, the public-spirited donor of this Lecture Foundation, in the letter establishing it, expressed the view that where our political system shows weakness, it fails for lack of sound education of our people:

- (1) In the principles of our Constitutional Government;
- (2) In the history of its development and its application to changing conditions, and
- (3) In the moral standards best developed in religious teaching and not safely to be separated from university work. He, therefore, concluded that the most useful contribution he could make, to render democracy safe for the world, was to found a course of lectures to pro-

mote serious consideration by as many people as possible of the fundamental and vital elements of permanence in the Constitutional Government in the United States. I am proud to have been selected as the first speaker in this course.

Accepting the language of the gift as the text for this opening lecture, we must examine what is the true nature of our Constitutional Government as a means of judging what is needed to preserve it.

The Constitution of the United States was not born as Minerva is said to have been, full armed from the brain of Jove. No great and abiding institution ever is. It was the first written constitution of an independent nation which, after creating its governmental organization and the agencies by which it was to be carried on, imposed on those agencies effective limitations of their powers by creating machinery for enforcing most of them. It recognized the ultimate power in the people of the United States and in their name pro-

ceeded to frame restrictions upon themselves as to how they might exercise their power through their appointed or elected agencies. In independent nations, this was a new conception; but it was not a long step from the kind of popular government which the colonies, the predecessors of the states, had had in exercising their powers under royal charters. Here the framers of the Federal Constitution found the suggestion of a written and defined form of government and of the enforcement of the limitations of its power. Whenever they departed from their charters, the British Government held such departures of no effect. It was easy with this experience for the people who were the makers of the new nation to take the steps, first, of prescribing in written compact the character of the government to be formed, and, second, of imposing on themselves the formal restraints by which they should be made to keep within the terms of that compact.

The second feature of the Constitution having a novel aspect was its federal character. This was forced on the Convention. The Revolution had been won by the states who had succeeded the colonies and who, after winning independence, lived along from 1783 to 1787 under the weak articles of the Confederation in relations and conditions going from bad to worse until, in spite of the bitter jealousies between them, they joined in an effort to improve the loose bond which the articles furnished. The states would not merge themselves in one government and the federation plan was adopted to retain local self-government and sovereignty in the states and yet to create out of the people of the states a nation having all needed functions for national purposes, and presenting a unit front to the world in international matters. There had been federations before, but never one in which the central government was so clearly

national, and had its life and being so directly in all the people.

The third feature of the Government under the Federal Constitution was its purely representative character. It vested the ultimate power in the people, but it secured to them the exercise of that power only through representatives. The selection of the President was not put directly in the people but in an electoral college, members of which were to be appointed by the states in any way a state thought fit. The Senate was made up of two representatives from each state, large and small, and was not to be directly elected by the people but by the state legislatures. The House of Representatives was the only branch of the Government whose members were to be chosen directly and in numerical proportion by the people. The judges were to be appointed by the President and so were all the executive subordinates of the President. It is true that since the Constitution was adopted,

the Electoral College, which was created in order that its members might exercise their judgment as to the man to be selected as President, has in fact lost this power and is only an instrumentality for registering the people's vote as between previously ascertained candidates with a weight proportioned to the population of the states. The members of the Senate, too, are now directly elected by the people.

The slightest study of the history of the framing of the Constitution shows that the members of the Convention in large majority thought that the permanence and safety of the new government required provisions which should prevent a change of policy to meet every temporary wind of popular passion. The checks and balances between the popular will and its ultimate control created by our Federal Constitution are greater than with most popular governments. The rigid term of four years, by which the Executive re-

mains in power no matter how strongly the people may give their verdict against him in the mid-term Congressional election, the six-year term of each of the Senators, arranged in three classes, so that only one-third of the Senate can be changed every two years, and even the certain full two years of each House of Representatives, however great the change in popular sentiment in a year, all make a contrast to what is called Responsible Government, like that in Great Britain, France, Canada, and other countries. Certainly, we are not a pure democracy governing by direct action, and the great men who framed our fundamental law did not intend that we should be.

The Constitution makers had it in mind to secure individual liberty, the right of personal and religious freedom, of property, and the pursuit of happiness. These include the right of labor and of contract, and the protection against deprivation of any of them save by due process of law.

This protection was granted primarily against the National Government and many forms are made sacred in the administration of federal justice which Congress cannot transgress or ignore. In the Constitution as originally adopted not much federal protection was afforded against state action infringing individual liberty of the individual except that the states were forbidden to pass laws impairing the obligations of a contract; but, as a result of the Civil War, the desire to protect the negro in his new freedom led to the adoption of the thirteenth, fourteenth and fifteenth amendments, by which many individual rights were put under federal protection as against a violation of them by the state executives, legislatures and courts. The Federal Constitution today, therefore, guards a man in the enjoyment of his personal liberty, his property and his pursuit of happiness, whether violated by the Federal or State Government. Thus are pre-

served to the individual that liberty of action and that equality of opportunity which it took a thousand years of struggle to secure from monarchy and aristocracy. The judicial branch of the Federal Government is vested with the final duty and power of making effective this protection of the individual in his right against the sovereign people.

The last feature of our Constitutional Government which we need notice is the machinery for its amendment. To change it, two-thirds of each House of Congress, and the legislatures of three-fourths of the states must concur. This is not a referendum to the people. It is a referendum to the people's representatives. We may reasonably infer that the framers of the Constitution did not intend to have our fundamental law amended by any temporary wave of popular frenzy.

When the Constitution was adopted, the proportion of the electorate to the whole population was much smaller than

it is now. "We the people," who ordained and established the Constitution, were not more than 150,000 voters in the thirteen states which had then a population of four million, including men, women and children. This was due to the required qualifications for voting which, in many states, included not only the ownership of property but also religious conformity, and excluded women, children and slaves. The steady trend since that day has been toward an enlargement of the electorate, so that today we are a much more popular government than we were under Washington. Property and religious qualifications have all disappeared. The greater the number of the governed who can take part in the Government, the juster it is likely to be to each group or class, and so the stronger and more permanent it will become, assuming that all are sufficiently intelligent to know what their interests are. A small ratio of voters to the population does not necessarily, however, make

an aristocracy. It was not true, for instance, that in the past women had no voice in the Government. They did have. They were represented by the men of their family and were willing to be so represented. Their identity with their husbands, fathers and brothers in the interest of the family unit was such that they felt that their interest was protected by their male voters. But the spread of education and knowledge of affairs among them, the increase of those who had no male voters to act for them, and the pressure on them to earn a separate livelihood, were circumstances giving many of them a consciousness of misrepresentation which led to the demand that has been heard. Minors are not allowed to vote because their immaturity unfits them to vote discreetly and wisely, and the identity of their interest with that of their parents secures them protection in the franchise of their parents. Alien residents are not allowed to vote because their allegiance to another

country deprives them of that abiding loyalty to this which should be present as a controlling influence upon every voter.

By the fifteenth and nineteenth amendments we have so increased the ratio of those entitled to vote to the whole population that it is now two-fifths of all instead of one twenty-fifth as it was when the Constitution was adopted. The fifteenth amendment has been nullified in eleven Southern states so that at least a million colored voters do not vote, and in all parts of the country many of all colors and sexes who can vote do not exercise the privilege. Probably a fourth of the population now vote in a Presidential election. This leaves three-fourths of those who are governed who do not take voting part in the Government. Yet we have the widest franchise possible. It is well to bear this in mind when we are discussing practical government. We must understand that the purest democracy with the widest possible franchise must still be a representa-

tive government in the sense that one-fourth must always speak for three-fourths of the governed in determining the course of that government. Moreover, we must know that even under the most liberal franchise, a majority and more of the governed have to obey laws they take no part in making and the minority have to obey laws they oppose. The theory that in self-government men need obey only the laws they make is unsound in fact and vicious in its justification for lawlessness. There is no form of government the successful operation of which needs so much implicit obedience to law, whether agreeable or not, as a democracy.

Even with the expansion of the electorate from the one twenty-fifth to one-fourth of the people, the Federal Constitution is still substantially intact and works smoothly and effectively to accomplish the purpose of its framers and to defend us all against the danger of sudden gusts of popular passion and to secure for

us the delay and deliberation in political changes essential to secure considered action by the people.

Ours is the oldest popular government in the world, and is today the strongest and most conservative. It is not an oligarchy or an aristocracy under the guise of Republican forms, and it never was. The people do rule and always have ruled in the United States. They have their will but they have it after a wholesome delay and deliberation which they have wisely forced themselves to take under the restrictions of a Constitution which, adopted by however small popular vote, they have fully approved by more than one hundred and thirty years of acquiescence. It is this voluntary self-restraint that has made their Government permanent and strong. It is a fundamental error to seek quick action in making needed changes of policy or in redressing wrong. Nations live a long time, and a year or five years are a short period in that life. Most wrongs can

be endured for a time without catastrophe. Reforms that are abiding are achieved step by step. It is better to endure wrongs than to effect disastrous changes in which the proposed remedy may be worse than the evil. Often things denounced as wrongs are not so. It needs attention and deliberation to decide first that a wrong exists, and second, what is the right remedy. A popular constituency may be misled by vigorous misrepresentation and denunciation. The shorter the time the people have to think, the better for the demagogue. One of the great difficulties in carrying on popular government is in getting into the heads of the intelligent voters what the real facts are and what reasonable deductions should be made from them. Any reasonable suspension of popular action until calm public consideration of reliable evidence can be secured is in the interest of a wise decision. That at least was what our forefathers thought in making our

Federal Government and the result has vindicated them.

Many contrast our system with the Parliamentary Government to the disparagement of ours. I venture to think that sober-minded people in countries with responsible governments, as they are called, are beginning to note in these days of dangerous and demoralizing class consciousness the advantage of our system by which changes in government are delayed to respond to the real voice of the sober majority over one in which the tenure of a ministry in power is temporary and insecure, and in which changes of ministry follow in rapid succession. Such quick changes do not make for steady steering of the ship of state and create a doubt as to the future.

The effect of the War has been to shake dynasties to ruin. Those which have fallen deserved to fall. The Central European rulers merited what has come to them because they plotted to fasten upon the

world the tyranny of military control. The Russian autocracy fell because the War gave the oppressed Russian people in all their suffering the chance to rid themselves of an abominably unjust rule. Yet in the ruins of these empires we have lost the equilibrium of obedience to law. It could not be otherwise. In the slow transition to well-ordered governments which shall succeed them, enemies of society, plotters of anarchy, destroyers of the bases upon which modern civilization has been built, have seized opportunity to array the lowest, the most ignorant, the most ill-conditioned against the intelligent, and the responsible. These latter are the saving part of all society and the hope of the world's progress. Yet it is sought to take away their beneficent leadership and influence, to end personal liberty and the right of property, and to establish a bloody tyranny of the proletariat under the control of a few misguided and cruel zealots. The Bolsheviks in Russia have

established themselves in power, have spread their propaganda aggressively in other countries and seek to concentrate into a moving and destructive force the unrest and dissatisfaction that the necessary upset of economic conditions and its accompanying hardships have created nearly everywhere. By dint of blatant lying, the utter failure of the Bolshevik rule to bring comfort or contentment to the masses of the people has been concealed somewhat from the discontented elsewhere, but it will out. Still, danger from the spirit which gave Bolshevism birth and life, continues throughout the world. We have it here but in less dangerous force than anywhere else. It is noisy here. It needs watching. It should be restrained. It may break out injuriously because modern lethal instruments give one man or a small group of men much greater power of local destruction than ever before, but the solid patriotism, conservatism and adherence to our sys-

tem of government will make such attacks only futile waves against a stone wall. It is at such a time that the valuable rigidity of our changes in administration and our intervening representative agency, interpreting and enforcing the popular will, have their greatest value.

Our Constitution has been called too individualistic. It rests on personal liberty and the right of property. In the last analysis, personal liberty includes the right of property as it includes the right of contract and the right of labor. Our primary conception of a free man is one who can enjoy what he earns, who can spend it for his comfort or pleasure if he would, who can save it and keep it for his future use and benefit if he has the foresight and self-restraint to do so. This is the right of property. Upon this right rests the motive of the individual which makes the world materially to progress. Destroy it and material progress ceases. Until human nature becomes far more

exalted in moral character and self-sacrifice than it is today, the motive of gain is the only one which will be constant to induce industry, saving, invention and organization, which will effect an increase in production greater than the increase in population. Indeed without it, production will decrease and so will the population, because starvation and disease will reduce it. With material progress, advance is possible in education and intelligence, in art, in morality and religion, in the spiritual. To such advance we must look for the antidote for the poison of crass materialism, of the selfish and cruel pursuit of wealth, of the ignoble lassitude of luxury and the evils of plutocracy. But these evils must not blind us, as they do blind many well-intentioned, dreamy reformers, to the fact that personal liberty and the right of property are indispensable to any possible useful progress of society.

The experiment which the Bolsheviks have been making in Russia has been hard

upon the poor Russian people; but as a lesson to the world on the futility of communism, and of the destruction of property rights as a means of promoting better social conditions and greater comfort among the proletariat, it is very valuable. It is not being lost upon our workingmen. It is gratifying to find Mr. Gompers denouncing Bolshevism.

Our Government, our politics, and our society are not perfect, and abuses in one form or another persist that need abolition. In the period of enormous expansion of our country's prosperity during the closing twenty years of the last century, the politics of the country bade fair to pass into corporate control. The railroads then defied attempts to regulate them. Presidential campaigns were largely conducted on contributions from great corporations. Congress, legislatures, city councils and local authorities were under strong suspicion of yielding unduly to corporate influence. The situation called

for a movement to drive corporations out of politics. Such a movement was undertaken and was successful. Accompanying it, however, was a demand for a change in our governmental system to prevent a recurrence of the evil. Direct and purer democracy, it was said, would be a permanent cure. It was urged that the representative system was at fault. The people as a mass must be given freedom to act at once and directly upon any evil in government. This was to be done by the Referendum, the Initiative, and the Recall. Through these, any one could initiate reform legislation and the people could pass it without trusting to the sense of duty of a legislature or a council. Through these, the people might end the official authority and life of an unsatisfactory public official. Moreover, the courts were to be subjected to direct supervision of the people, who might, after an unsatisfactory decision by a court, reverse the judgment by vote and in the same manner remove the

judge from office. Nearly related to these new plans for popular government was the general primary, by which the representative system was abolished in party organization for the selection of party candidates and they were to be chosen by the votes of the people in a preliminary election.

After a decade or more of trial and test by actual experience, this adoption of so-called "purer" democracy has not been a success. It has been enormously expensive. The number of those voting on proposed statutes has been so much less than those voting for candidates at the same elections and, when the submission has been at a special election, the total vote has been so small as to show that voters do not think themselves fitted to express an opinion on legislation which should be discussed and adopted by men elected for the purpose to a legislative body. The Recall has not been much used and has only served to rob officials subject to it of that

courage of action needed to do good work. Recall of judicial decisions and of judges has not been used at all. This reform died "a-borning." The general primary has had a wide trial, but no one intimate with its working and results can be enthusiastic over it. Legislatures filled with men who have noted its effect would like to repeal the general primary laws and restore the party convention, but they do not dare to do so lest their opponents make political capital out of it. They know that it has vastly increased the expense of elections. It has made two necessary. It has not only cost the public a heavy outlay; but, what is worse, it has made impossible as a candidate for an elective office every one who is not the choice of the machine or is not independently wealthy. No one can afford to be a candidate unless he can count upon the support of the regular party organization or unless he can create a personal organization, and that costs much money. It has not destroyed, it has strengthened

the control of the machine; but it has taken from it an obligation of responsibility. In this state, you have an informal extra-legal preliminary convention to avoid some of the abuses of the general primary. It is to be hoped that this masqueraded means of neutralizing the primary may yield to a courageous repeal of the law. There is no reason why the convention and the selection of delegates to it may not be surrounded with the same safeguards against corruption as a primary. We shall then have restored the opportunity for discussion and deliberation in the selection of party candidates.

The greatest evil the primary has done is the destruction of party responsibility for the fitness of candidates and of party discipline. In many states, men who are not loyal members of the party are enabled to take part in the primary and to seek to become candidates on the party ticket. Democratic voters in a Republican primary have not infrequently been able

to foist on to the Republican party ticket a weak candidate whom the strong Democratic candidate can easily defeat, and *vice versa*. Factions who are not regular party supporters at all have put their own men on the regular party ticket and destroyed party solidarity. These things are impossible in a convention system. Moreover, the convention is needed to declare party principles. To have them declared by the candidates, as is often done under the primary system, is to put a premium on trimming and still further to impair the responsibility and utility of parties.

In my college days, I was wont to think of parties and partisanship as a necessary evil and something which ought to be abolished, if possible, and of the man who held himself aloof from party as the model to be followed. Washington, in his farewell address, deplores party and faction, and evidently hoped for a fading out of party in the carrying on of the Government. I am satisfied, after considerable

opportunity for observation, that two great parties are the greatest aids to the successful administration of popular government. Without them, the proper interpretation of the popular will into effective governmental action becomes very difficult. The division of voters into small groups with no majority control by any one paralyzes a government into doing nothing, into weak compromises, into a hand-to-mouth life. Division into groups means parties based on class and faction. It means the willingness of each to sacrifice the general interest of the country to the achievement of a particular object. Parties based on class cleavage are inimical to broadly patriotic government for the benefit of all the people. Two great parties mean a cleavage down through all the strata of society, the wealthy, the educated, the moderate circumstanced, the business men, the workingmen, and the farmers. The group system tends to parties with a horizontal cleavage of the

strata of society and we find the farmers in one party, the workingmen in another, the business men in another, the manufacturers in another, each contending for its special interest and ignoring the welfare of society as a whole. Normal party feeling in one of two great parties tends to neutralize this class and selfish spirit, and prompts a consideration of the interest of all classes of the people represented in the party. One great party makes the other better by its criticism and opposition. Each puts the other on its good behavior; but when there are many small groups, each for itself and its selfish object, there is no considerable stimulus to good behavior on the part of any group. The group system is the opportunity of the socialist, the radical, the communist. It is the hope of the crank extremist. In every district where, though small in number, a group can exercise a balance of power, it bends the legislator to its will by threats. With no sense of responsibility as to gen-

eral policies and the common good, it pushes its purpose. It thus sometimes happens that legislation is secured which the majority of the people would not favor on its merits but for which a comparatively small minority is willing to sacrifice everything.

I do not wish to deprecate the course of those broad-minded citizens of intelligent discrimination and patriotic purpose who, on grounds of general welfare, sometimes support one party and sometimes the other. They are essential in our system. They throw the election one way or the other as they vote. They do not exercise influence within the party but they have a most wholesome influence from without. But experience has shown that in normal times, under natural impulses, many men attach themselves to one or the other of the great parties. That is, for the reason stated, a good thing. A great party is of necessity broad in its view of the country's welfare and from selfish motives some-

what careful in meeting its responsibility. Those who make up its rank and file insensibly acquire the same point of view. One of the essential aids to successful popular government is great leaders, and confidence in them is stimulated by the existence of parties.

I concede the evils which arise from hidebound partisanship at times. I am not blind to the motives of fancied political expediency which lead such parties into promotion of measures which are not best adapted to the needs of the country. They often put men in power who are neither the ablest nor the highest-minded of men available. They often trim when they should be courageous to meet an issue. But what I am pressing on you is that, constituted as they are of all sorts and conditions of men, they are much more likely to be American in their view and purpose, much more likely to be considerate of the whole country, and much less likely to be narrowly moved by the

ambition of a selfish faction than the small “one-idea’d” group of whose dangerous purposes I have spoken.

Allegiance to a party should never lead one consciously to countenance wrong or injury to the public weal; but as we note the live dangers to our Republic, we are forced to admit that excessive partisanship is not now one of them, and that the institution and maintenance of great parties is an antidote for class consciousness and selfish factional diversion of national funds and energy into class preferment and away from the general good. We are still healthy. Organized labor seeks political ends at times. Often it presses for useful legislation and secures it. Then it seeks to defeat legislators and others who have not bent the knee to its class demands. It is gratifying to note that the leaders do not control the labor vote and that many workingmen refuse when they enter the voting booth to bear a class label. They are Republicans or Democrats. They look at

the election from a broad American stand-point and vote their judgment. The man who carries the labor vote in his pocket is a bogey. Nor will the women constitute themselves a political party. No party can live founded on sex alone, now that sex is eliminated as a basis for political discrimination. Women voters will now become Democrats or Republicans as they ought to be, and will be guided by general country-wide considerations in the casting of their ballots.

The welfare of the community has been emphasized in modern days, and the ruder Anglo-Saxon doctrine of individual independence and every man for himself has properly yielded to a sense of greater responsibility of the community for its members. With this has come a greater qualification of the enjoyment of individual rights of liberty and property in the interest of the community as a whole. There was always such a qualification recognized by the courts and enforced by

the Government, but the change in our social and physical conditions of life has emphasized it and enlarged it to conform to that change. As population has grown and great masses of people are concentrated in small areas, greater health preservatives are necessary, more careful provision for feeding the people from long distances has to be made, and all the machinery for maintaining them in comfort becomes more complicated, and the preservation of free currents of this kind becomes more important and a matter of government responsibility.

The right of property and the right of labor, when used in great combinations, have furnished means of extortion, oppression, and obstruction which Congress has passed laws to restrain and punish, and the courts have sustained such laws.

Social groups in a great community become more interdependent. One member cannot be as independent of another as when they lived in a wilderness miles

apart. Our constitutional system has been easily elastic in these regards, and courts have not failed to apply it to conform to the needs of the community. These changing conditions have led some reformers to condemn what they call the excessive individualism of the Constitution. I confess I do not follow them. The rights of personal liberty and of property as protected by the courts are not obstructive to any reasonable qualification of these rights in the interest of the community. Indeed we may well question whether the paternalistic enthusiasm of such reformers has not gone too far. The strength of the American in the past has been in his independence and self-reliance. He asked only an equal chance with others and was content to abide the results of his own efforts. It was this spirit which carried our country on to its present marvellous development. A weakening sense of dependence on the Government, on the one hand, and an excessive confidence that legislation can

do anything, on the other, have had a dangerous tendency to minimize this independence and self-reliance and have produced tons of statutory laws under which public money is wasted in futile attempts at their execution, and respect for all laws is injured by the ineffectiveness of so many. This disease of excessive legislation has been rendered more epidemic by the outbreak for pure democracy in the form of the Referendum and the Initiative. Through them private citizens, who conceive a panacea, can, by securing the necessary subscribers to a petition, impose upon a suffering public the obligation and cost of passing on the ill-digested product of ignorant, impracticable, but active and enthusiastic minds. Legislators learn that their industry and public service are measured by the glorious objects recited in the titles of their bills rather than by the practical working of them as laws for good. Hence their fecundity in bills and their eagerness in pressing them into law.

The amount of useless legislation in the states of this country is appalling and is one of the most distressing signs of the times.

The lesson must be learned, expensive as it is proving to be, that there is only a limited zone within which legislation and governments can accomplish good. We cannot regulate beyond that zone with success or benefit. Governments are not adapted to do business as are individuals prompted by their gain in economy and efficiency, and should not be so burdened. Failures in government ownership and operation of enterprises, normally and legitimately adapted to private conduct, confront us on every side and should teach us their lesson.

If we do not conform to human nature in legislation we shall fail. We can waste money in helping individuals to a habit of dependence that will weaken our citizenship. We can, by passing laws which cannot be enforced, destroy that respect for

laws and habituated obedience to law which has been the strength of people of English descent everywhere.

We must stop attempting to reform people by wholesale. It is the individual upon whom our whole future progress depends. In giving and securing scope for his ambition, energy, and free action our constitutional system has its chief merit, whatever would-be reformers say.

It goes without saying that if the government of the people would save itself it must secure to the individual person the education indispensable to his exercise of wide and wise discretion as a constituent member of the government. Our public school system is one of the foundation rocks of our community and, in theory at least, has always been declared by us to be so. It is not possible to give every man and woman a university education or even a secondary education, but it is possible to give him a thorough primary or common school education upon which, in the uni-

versity of his life experience, he can build, as many of our greatest men have builded before him. We have always prided ourselves on our public schools; but we had a great shock to that pride when we examined the statistics of illiteracy revealed by the rigid examination of men enlisted or drafted into the army for the late war. We found a most distressing number of men who could not read or write among the native whites, of our citizenship. It is notorious, too, that our teachers are not properly paid, and that, therefore, they are not properly prepared to teach. We have a heavy task before us but we must do it. Not only is there this large number of native whites but the negroes and the foreign born greatly increase the number needing especial attention. It is so great a work that the agency of the National Government must be invoked to help in some practical and unobstructing way. In the wealthier states such aid is unnecessary, but in the states where illiteracy is

more prevalent, public funds are not so available from state resources, and national assistance may be properly extended. The standard of agriculture in this country has been distinctly raised by the work of the Federal Agricultural Department although the Federal government has no constitutional control of agriculture. Why may we not have the standard of thoroughness improved in the common school system by federal activity even though the Central Government has no direct authority in matters of education?

With the native born as well as with the foreign born we must inculcate Americanism in its true sense. The greatness of the country, the good it does its citizens, the freedom it secures them, the equality of opportunity evident in the success of the humblest born and the leadership of the self-made, must all be enforced as a basis of grateful love of the country. But more than all should be pressed into the mind

and soul of each boy and each girl that he or she is the country and that as he or she shall pursue an honest independent industrious moral life, he or she will be making for a greater America.

The great war relieved the minds of many who had come to think that our great prosperity and our increase in wealth and the spread in all classes of creature comforts to the point of making former luxuries necessities, had sapped the foundations of love of country and the spirit of patriotic self-sacrifice in our youth. The great world struggle evoked the spirit of '76 and '61 from the young men and women of our country in a thrilling way and the selfishness and love of comfort disappeared in the triumphant energy and courage and effectiveness of Young America. Now we have had a reaction. Now the shallows are murmuring again. Now the pro-German and the Irish Extremist occupy the stage with "an other worldliness" seeking to disturb our

friendly relations with our allies. Such manifestations are misleading as to the real sentiment of the country while the deeps remain dumb. The Reds are again making night hideous with their threats and their prognostications of evil, and their attempts to stir class feeling and injurious discontent. Therefore, it is that in our public education, class consciousness and "other worldliness" should be fought at every turn. The breaking down of the fancied class barriers by the energy, ability, and independence of the humblest should be the text of every homily. So, too, should be the welfare of the United States and its responsibility to its fellow members of the family of nations. The lesson of obedience to law and government and political self-restraint and discipline should be an easy one to teach in schools and to exemplify. Respect for authority can be lost by lack of discipline and can be strengthened by its exercise. Liberty, abiding for each person, is impossible un-

less it be ordered liberty. Without law and conformity to it, we shall have license and not law, and anarchy, inequality and tyranny, and not liberty. In no respect do the lovers of America feel more concern than in the outbursts of lawlessness, not so much in personal crime, but in the manifestation of the mob spirit and indifference to the enforcement of law. Why can we not surround our youth with the atmosphere of respect for, and obedience to, authority? That is self-government. Without it, popular government is a failure, and our constitutional system is a hollow mockery.

Not only is education necessary but even more essential is moral training—a sense of responsibility for what we do—a standard of action which satisfies conscience. It can hardly be separated from religion. It is unfortunate that we cannot well unite religion and moral training in the instruction in our public schools. Men may be moral and not be religious, but

they are exceptions. Religion is the great stay of morality. It is the conscious study and feeling of responsibility to God. It is a dwelling on our relations and duties to God. As Matthew Arnold puts it, it is our relation to the Being, not ourselves, who makes for righteousness. Its corner stone is unselfishness. It is the antidote for class hatred. It makes for the love of human kind. It prompts patriotism. It lifts one out of the sordid view of things. It broadens our horizon. It reveals true Americanism. And it reconciles individual freedom and responsibility with respect for Divine Authority. That is why the anarchist and the Bolshevik will have nothing of religion. The churches of the community are the great and useful agencies for stimulating religion and its practices. They need encouragement. Every university should encourage its students to the worship of God. Look over the world's history and tell me the nations who deserved well of the human race for their progress, and you

will find that religion was the moving cause of their effort, their sacrifice and their success. As long as the United States remains a religious nation, there is no danger of the corrosion of Bolshevism, Communism or any destructive and cruel cult. Christian civilization rests ultimately on the inspiration of the religious spirit. It is that which will render innocuous and neutralize the evil effect of the selfishness which is necessary to give energy and thrift and industry to material progress. It is that spirit which sweetens life with the love of family, of country, and of God. It is the preservation of this spirit of the fatherhood of God and the brotherhood of man upon which we most depend for the maintenance of useful constitutional government.

I have thus tried to follow the text of the donor of this Foundation. I have attempted to give the essence of our constitutional system and to describe how it uses democracy to attain the welfare of the

people and the greatest good for the greatest number. I have pointed out the errors, as I conceive of them, of many earnest supporters of what they call pure democracy, chiefly in forgetting that democracy is but a means to an end, just as liberty is. The end is the happiness of all individuals. To be useful, democracy and liberty must be regulated to attain this end and not to defeat it. I have emphasized the dangers against which we must guard our noble state and civilization, and have urged improved education and stimulated religion as most important agencies in defending against those dangers.

I am an optimist. I believe profoundly in our constitutional system and its value to us, because I believe it is the expression, accurate and responsive, of our American people. As it has preserved our liberties and happiness in the past, so may it serve us in our greater difficulties and achievements of the future!

PRINTED IN THE UNITED STATES OF AMERICA

